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THE BENEFIT OF THE HEPBURN LAW TO THE BANKER, BROKER, SHIPPER, AND THE PUBLIC

ADDRESS DELIVERED BEFORE THE
FITCHBURG BOARD OF TRADE
WEDNESDAY EVENING, APRIL 3,

BY CHARLES STEPMAN HANKS
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THE BENEFIT OF THE HEPBURN
LAW TO THE BANKER, BROKER,
SHIPPER, AND THE PUBLIC

CHESTNUT HILL, MASS.

44 CIRCUIT ROAD

Here's thinking of you.

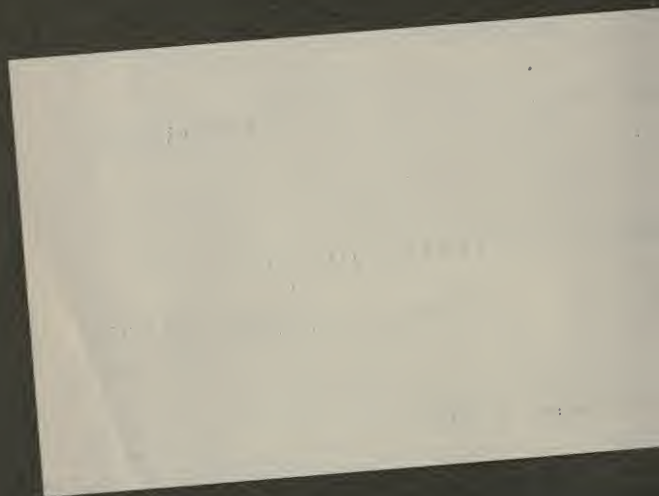
CHARLES STEDMAN HANKS

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THE BENEFIT OF THE HEPBURN LAW TO THE BANKER, BROKER, SHIPPER, AND THE PUBLIC

When Congress passed the Hepburn bill, it knew that the time had come when the government must either control the railroads or the railroads would control the government. Experience, too, had proved that there must be a closer mutuality of interest between the railroads and the shippers if the covert and destructive warfare which was being carried on between our different railroad systems was to be prevented,—a condition of affairs which had been brought about by secret rates and the rebate system.

This Hepburn bill which, on the 28th of August, 1906, became a law, will prove to be an epoch-making law, and, in my judgment, it is as important a law as the laws which were passed when Alexander Hamilton devised his plan of a national credit. Before the Hepburn bill

became a law, many railroad officials, ignoring the fact that railroads are public service corporations, had forgotten that the people had rights and had charged unreasonable rates, and, although a shipper could file, with the Interstate Commerce Commission, a complaint that a rate was unfair and unreasonable, the Commission had no power to enforce its findings; and, as the people were the ones who suffered, government regulation consequently became imperative.

Soon after the bill became a law, a prominent railroad president made the statement that he intended to do what he could to prevent the pernicious practices, which have heretofore existed, and the other day another prominent railroad man said that he believes the Hepburn law is for the best interests of the railroads. In other words, the attitude of railroad officials is already changing. When the bill was before Congress, the railroads used every influence to prevent its becoming a law. Now they are beginning to believe that what the government was contending for is a good business proposition.

The passage of the bill, it was hoped, would

bring about harmonious and progressive action among the railroads in coping with the problem to be solved in the transportation business, as up to this time railroad officials had been unable to agree among themselves upon any general railroad policy. In order to have some definite policy for carrying on the transportation business of this country and also to bring about more economy of operation, the building of new lines, better equipment facilities for the handling of traffic and to eliminate parasitic corporations whose operations were affecting the earnings of other roads and to prevent discriminations, rebates, and rate wars, the Hepburn law has made certain rules and regulations which the railroads must now follow. Many of the provisions of this law were drafted for the benefit of the public, and the public is now wondering what effect the law is to have upon the progress and prosperity of our country. In considering the law, we must keep in mind:—

First, that the government has now a voice in regulating the revenues of the railroads.

Second, that the Interstate Commerce Commission has practically been given executive, administrative, and judicial powers.

Third, that Congress, when it prescribed in a general way the rules and regulations for conducting the transportation business of this country, made such rules and regulations that the shipper need no longer have any lack of confidence that he will be able to get the rights which belong to him.

Fourth, that Congress, when it made the Interstate Commerce Commission the arbitrator to decide all questions of railroad transportation, passed a law which makes it impossible for any combination of interests to get any privileges which the smallest shipper cannot now obtain.

Under this law the fundamental remedy for any injustice to a shipper by a railroad and for any discrimination against a small railroad corporation by some large railroad system lies in the power of the Interstate Commerce Commission to regulate rates, Section 1 of the Act saying:

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

Section 15 saying,

The Commission . . . is authorized and empowered, and it shall be its duty . . . to determine and prescribe what will be the just and reasonable rate or rates, charge or charges, to be thereafter observed as the maximum rate to be charged.

Keeping in mind, therefore, these two provisions of the Act as the governing clauses of the law, it is easy to see that we can find out what the remedies are for many of the evils and faults which had previously existed in railroad operations by mathematical calculation, as the Interstate Commerce Commission, in determining what are fair and reasonable rates, is obliged to take into consideration not only the details of all receipts and disbursements of a railroad, but its capitalization and financial standing, if it is to make a maximum rate based upon the real conditions under which the road is being operated.

In order to understand the real railroad situation, the Interstate Commerce Commission has been given the right, in the 20th Section of the Act, to require every railroad to keep its accounts and memoranda according to such form as it shall prescribe or approve, and the law also provides

that every railroad corporation shall annually file a sworn report showing in detail its business, its capitalization, and its indebtedness. If, therefore, the provisions of the law are enforced, there will no longer be any sensationalism in the management of our railroads, and the roads will be operated according to the rules of commercialism, for the reason that the power to regulate rates has been transferred from the railroads to the government, and the rates must now be based upon commercial conditions estimated at their proper values. Further, if the reports of the railroads are properly tabulated by the statistical division of the Commission, the shipper will now need no more intelligence in understanding with substantial accuracy what a road should earn and approximately what a rate should be than he now requires in carrying on his own business.

What this power to regulate rates means has been stated by one of the ablest railroad attorneys of this country in an article in one of our magazines in which he says, "It is a matter of common knowledge that the rates charged by the railroads of this country affect all classes of our community, that they determine very largely the outcome of

all private enterprises, that upon them hinges only too often the national well-being, if not the very existence of our villages, towns, and cities, and of our seaboard and large sections of our country."

When, however, this power to regulate rates was transferred by the Hepburn law from the railroads to the government, an equally prominent railroad man said, "The act is revengeful and punitive, is drawn either in ignorance or prejudice, that it has less thought of fairness to the railroads or the interests of the public than to concentrate tremendous power in the general government, not necessary in the elimination of the abuses complained of and which, if constitutional, gives power to disarrange the established market to an extent that, if exercised, will produce little short of revolution, and that the power to favor one section of the country and punish another is too great to intrust to any set of men." As the power given to the Interstate Commerce Commission is restricted to making fair and reasonable rates, it does not have the power to disarrange the established market of this country, other than those hot-house growths which have been brought about by combina-

tions of railroad interests. Further, there is always an appeal from any decision of the Commission, and any one with a grievance, whether he be a shipper or a railroad corporation, can have "his day in court." Further, one of the purposes of the Hepburn bill was to prevent the railroads changing the natural markets of this country by making preferential rates, particularly on lines running from the interior to the seaboard, which resulted in naturally inferior ports being put on a par with the best ports and naturally inferior routes on a par with the best routes, all of which is prejudicial both to the producer and to the shipper, and has changed the established markets of this country.

The power given to the Interstate Commerce Commission is a very great one. If, however, the different factors interested in this transportation problem work in unison with the underlying thought that all rates must be just and reasonable, the Commission will have less occasion to use its powers or to regulate rates than the merchandise clerk does in marking the prices at which the merchandise of his firm is to be sold, for the reason that the Commission is limited in the exercise of its powers to deciding

cases where the rates are unfair and unreasonable. The important fact, however, which the people of this country do not yet seem to realize the significance of, is that any one can now initiate proceedings with the Commission which will necessitate fair and reasonable rates being made,—rates which are no longer to be based on guess, but on facts, figures, and conditions, and, as railroad operations are now to be shown with such completeness that the ability to determine what the statistical reports mean will no longer be limited to the expert, the shipper can now determine for himself what are approximately fair and reasonable rates, provided, however, the reports of the railroads to the Commission are properly made and are properly tabulated by its statistical division.

THE STATISTICAL REPORTS.

The statistical reports of the Interstate Commerce Commission are, therefore, one of the most important elements in getting fair and reasonable rates, and they should be so tabulated that the shipper can understand them as easily as he now tells from his railway guide

the movements of passenger trains. Until these statistics are a correct tabulation of the returns of the railroads, the shipper has no real basis upon which a complaint can be made. If these statistics are to be properly tabulated, the Interstate Commerce Commission must give up using the Merger Rule. By this rule which the Commission has adopted, a road under the control of another road by a lease of long duration or by the ownership of the majority of its stock is not obliged to make a report to the Commission. The identity, therefore, of the controlled road disappears, and its name is dropped from the Commission's list of railroads, although it still has a legal entity as a railroad corporation, and its bonds are still in the hands of the public.

Mr. G. W. R. Harriman, who has made an examination of the statistical reports of the Interstate Commerce Commission for me, has claimed that, by the application of this Merger Rule to the capitalization of the railroads, the value of the statistical reports is vitiated. Five months after this criticism was made, an editorial appeared in the March 15th number of the *Railway Age* as follows:—

In his annual report for the year 1905, just now being distributed, Professor Henry C. Adams, Statistician to the Interstate Commerce Commission, announced that he has in progress a detailed investigation of the duplication of the railway capitalization which, when completed, will enable him "to make an absolutely correct statement of the amount of railway capital, which in fact, under the existing organization of railway properties, may claim support from railway earnings." This is a somewhat tardy step toward the elimination of a needless error which has done much to mislead the general public and to create sentiment adverse to the great industry with which Professor Adams's official duties are connected. The need of it is shown by the statement in the report that the total capitalization on June 30, 1905, was \$13,805,258,121, or \$65,926 per mile, a statement which, it is admitted, "makes no deduction of stocks and bonds owned by railways in their corporate capacity, and, to the extent that such deductions are proper, overstates the capital." . . . The true capitalization, which cannot be obtained from the report except by compilation, was \$11,167,105,992, and the average per mile of line was \$53,327, a difference of nearly twenty per cent.

In another issue of this same railroad publication was the following statement, which was appar-

ently the result of an interview with the Statistician of the Commission, namely:—

It is understood that this Merger Rule is not to be published as it has been, and that in the new collection of statistics which begin under the Hepburn law Professor Adams will accept the amendment of Mr. Harriman in this and other particulars.

These, together with other admissions which have been made in reference to other criticisms of Mr. Harriman, concerning the statistical reports of the Commission, have already proved that eighty per cent. of his criticisms were proper ones, and it will only be a question of time when all of his criticisms will be admitted.

If a correct tabulation of the reports of the railroads is made, it will probably show that a majority of the railroads of this country are being operated according to business principles. These railroads, therefore, should not be considered with those roads which are being discredited in the way in which the public is now discrediting the management and financial operations of all railroads. Further, an analysis from a proper statistical exhibit would locate any over-capitalization, and give absolutely the

place where the remedy should be applied. In fact, the correction of any over-capitalization must start with the statistical reports, for the reason that prior to the passage of the Hepburn bill the traffic manager made the rate according to "what the traffic would bear," and did not take into consideration the capitalization of his road. The Commission, however, in regulating a rate is obliged to take into consideration this capitalization, as it is one of the elements in determining what a just and reasonable rate should be, because in making a just and reasonable rate, it must know what is a just and reasonable capitalization.

THE INTERSTATE COMMERCE COMMISSION.

As the Interstate Commerce Commission has now the power and a dignity practically equal to that of the Supreme Court, it should be so constituted that any person and any railroad corporation can, without hesitation, appeal to its wisdom, and expect to receive just decisions. With the many mandatory provisions of the Hepburn law as a guide, there need be no ambiguity in interpreting the meaning of the law,

and there should be no loss of time by the Commission in making its decisions, as every shipper, under the provisions of the law, has the right to expect a decision within sixty days after his complaint is made. These decisions of the Commission must necessarily be largely based on its statistical reports, and the estimate of the Statistician that it will take two years to formulate a proper form of books for the railroads to keep, is too long a time to hold the situation in its present unsettled condition. Many things could be done at once to relieve the present situation. The distrust which the public now has against all railroad corporations could be eliminated from a majority of these corporations if the Commission should put in classes by themselves those railroads which, by their reports in the past, showed that they complied with the request of the Commission, and which now show that they are complying with the provision and the purport of the Hepburn law. How these railroads can be classified Mr. Harriman has indicated to the Commission. If his suggestions are followed, the stocks and bonds of most of our railroads will soon have a more stable value.



Although the Commission has been given executive, administrative, and judicial powers in interpreting the Hepburn law, and although the Commission should be aggressive in protecting the rights of all persons and all corporations, it should only initiate proceedings as a last resort, as its most valuable function, as a branch of the government, is in acting as arbitrator on the broad lines of co-operation between the public, the shipper, and the railroads. If this is done, it will at once give a feeling of security to investors, a guarantee of stability and uniformity of rates to shippers, and create a more harmonious feeling between the different railroad systems in coping with the problem to be solved in the transportation of persons and commodities.

Every question which the Commission has to decide is an economic one which can be reduced to a specific problem, can be defined in writing, is susceptible of proof, and can be solved without jeopardizing any interest, if the roads are honestly financed and managed according to business ethics. In the Nebraska maximum rate case, where the question of how to arrive at a just and reasonable rate was at issue, the Court said, "In order to ascertain that [a just and reasonable

rate], the value and the original cost of construction, the amount expended in permanent improvement, the amount and market value of its [the road's] stocks and bonds, the present as compared with the original cost of construction, the probable earning capacity of the plant under particular rates prescribed by statute, and the sum to meet operating expenses are all matters for consideration, and are to be given such weight as may be just and right in such a case."

THE PARTIES IN INTEREST.

With the Hepburn law stating definitely the way in which transportation shall be conducted, with the Interstate Commerce Commission having the power to enforce these mandatory rules and regulations which are now to govern all railroad operations, with the certainty which every shipper now has that the rates will be fair and reasonable, there are obviously nine distinct factors which will be effected in the solution of any transportation problem which has to do with the reasonableness and the justice of any rate. These factors are:—

First.—The railroad corporations.

Second.—The general shipper.

Third.—The special shipper who controls such transportation devices as private cars, spur tracks, etc.

Fourth.—The private car companies.

Fifth.—The express companies.

Sixth.—Our legislators.

Seventh.—Our bankers and brokers who deal in railroad securities.

Eighth.—The investors in railroad securities.

Ninth.—The public, who in the last analysis pays all the bills.

Each can demand that the Commission shall give a decision in reference to the reasonableness of any rate, and any one of these different factors can make a move on the checkerboard which will affect the interests of all the others. It is this phase of the law, that any one can now start the ball rolling, which the public is now only beginning to realize the significance of. Here, again, the statistical reports of the Commission become an important element which every factor has to consider, for, unless these statistics are properly tabulated, no one can know what will be uncovered. Correct statistics are consequently as important to the railroads as to the banker, the stock broker, the shipper,

or the investor in railroad securities, for the complaint of a small shipper, if sustained by the Commission, is apt to become of vital importance to some railroad corporation, some banker or broker, or some investor in railroad securities, as the decision of the Commission may affect some large business proposition which is being formulated.

Up to this time the public has only heard the railroad side of the question, and has not taken into consideration the fact that, when any transportation problem now comes up for decision before the Interstate Commerce Commission, every one of these factors has some interest at stake, and, before any correct solution of the problem can be arrived at, each has a right to be heard and to contribute such facts as he can towards the solution of the problem. Our bankers, brokers, investors, shippers, and the public are only now just beginning to realize the broad range of the Hepburn law, and, now that they are waking up to the fact that this law affects their own business as much as it does the railroads, they are beginning to see the importance of having reports in detail filed by the railroads, and of having these reports cor-

rectly tabulated, so that the law can be enforced with a proper understanding of the whole question.

OUR BANKERS AND BROKERS.

Take, for example, the effect of the Hepburn law as it applies to our stock brokers. Under the old law a stock broker might know that the freight rates on a particular road were excessive, yet, knowing that the government had no power to reduce the rates, this broker would be safe in assuming that these rates would be kept high enough to support the stock which the road was putting upon the market, although he knew that it was watered stock. Under the new law, although he may be on the inside and may know that watered stock is being put on the market, yet, knowing that the Interstate Commerce Commission may at any time lower the rates, this special knowledge becomes a factor which he is now obliged to consider in a different way when he underwrites a block of this stock, because he now realizes that some shipper may at any time file a complaint with the Commission, and the rate be reduced. In other words, under the old law the stock broker could work with

the railroad. Now he must base his business judgment on the facts as they exist, and the first question which he will ask himself is whether the rates are unreasonable and therefore liable to be lowered by the Interstate Commerce Commission. Under the old law he studied such reports as the railroads saw fit to publish. Now he has to study the statistical reports of the Commission, to determine what his policy will be, as the data given in these reports point to certain conclusions which the Interstate Commerce Commission is bound to follow in making its decisions. Formerly the policy of the railroads was the determining element. Now it is the attitude of the Interstate Commerce Commission.

THE SHIPPER.

Take also the effect of the law as it applies to our shippers. In considering the law from the shipper's view-point we must keep in mind first that uniformity is one of the fundamental principles underlying the law, not only in reference to the book-keeping of the railroads but also in reference to railroad operations. A

standardization of railroad operations, though not specifically provided for in the Act, is, consequently, a necessary sequence in carrying out the provisions of Section 2, which says,—

That if any common carrier subject to the provisions of this Act shall directly or indirectly by any special rate, rebate, drawback, or other device charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of the Act, than it charges, demands, collects or receives from any other person or persons for doing him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discriminations, which is thereby prohibited and declared to be unlawful.”

Before the Hepburn bill became a law few, if any, railroad officials apparently discovered that the natural consequence of carrying out this provision of the Act meant that, by having a uniformity of rates on each railroad system, a standardization of railroad operations must develop, and, as far as I know, this has never

been suggested in any newspaper. Further, the result of this provision of the Act will necessarily be that discriminations in rates must now be considered in a broad sense, and not be confined to competitive localities, so that shippers will be able to send their goods to the best market, wherever it may be.

In considering this provision of the Act, we must not forget that our great railroad systems are made up of many separate companies, each company with its own plan of making rates and that the rates on the small railroad lines were frequently higher than rates would have been if these smaller corporations had been a part of some large railroad system. When these smaller lines were consolidated into some large system, little if any effort was made to reduce these rates to conform to the rates of the larger system. The result has been that there are now inequalities in rates on nearly every railroad system which must be adjusted by the Commission in carrying out this provision of the Act, as many shippers on different parts of the same system now have just cause for complaint when the rates which they are charged, are compared with the rates charged other shippers on other

parts of the same system. For example, the rate on goods shipped from A to C may be different from the rate on goods shipped from B to C—A, B, and C being shipping points on the same railroad system and the physical conditions between A and C being the same as between B and C. As this is a service for “a like kind of traffic under substantially similiar circumstances and conditions,” such discriminations are unlawful under this section of the Act. Consequently, because an intelligent comparison of the detailed operations in the carrying of freight can now be made by examining the freight tariffs, it is inevitable that a uniform tariff must be established on each road for freight transportation as well as for passenger service. Further, because the uniform system of book-keeping to be adopted will now show which roads are able to carry freight most economically, it will inevitably result that every road must sooner or later conform to the standard of the road which is operated on the best business principles, if the industries along the lines of those roads are to be maintained against the competition of commodities where freight rates are lower. Further, these inequalities must also be adjusted before

the Commission can attempt to formulate any general scheme for regulating the rates of any railroad system as a whole.

This underlying principle of a uniform tariff has now become apparent to such of our legislators as are familiar with the Hepburn law, and with this idea in view certain bills were introduced in our last Congress which had for their object the enactment by law of uniform passenger rates in order to minimize the necessity of future legislation, either State or National, in reference to the passenger service.

As both passenger and freight rates are now crystallizing into standard tariffs, it has become important for the railroads to know what standard the Interstate Commerce Commission will adopt in order that they can apply this standard to their own roads, even though no complaint has been made that unreasonable rates are being charged. The attitude of the Commission, therefore, is of the utmost importance to the railroads, and a correct tabulation of the Commission's statistical tables is of as much importance to them for the reason that upon these publications the Commission must base the standard which it adopts.

Since the Hepburn bill has become a law, many of our large railroad systems have recognized this underlying principle of the standardization of railroad operations, and in their passenger service have made their passenger tariffs on a two cent per mile basis. Of course, this two cent flat rate would be too low to adopt at this time in many instances, but the principle of uniformity should be established, whatever the rate per mile may be made, and, as uniformity is the first step to be taken in solving the problem of the regulation of rates, many of our railroads are trying to bring it about as quickly as is consistent with good business judgment.

PUBLICITY OF RAILROAD MANAGEMENT.

As the predominating feature of the Hepburn law is that all railroad operations are to be given the greatest publicity, the Interstate Commerce Commission, in addition to prescribing the form of books which the railroads shall keep, has been given the right to call for special reports from the railroads at any time, so that not only the shipper and the investing public, but our bankers and brokers, can know to what

extent the bonds, stocks, and rates are being manipulated, and this means that the Commission, by publishing these reports, can nip in the bud any bond or stock manipulation. Further, it has also been given the right to require any railroad to file monthly report of its earnings and expenses, and this means that investors in stocks and bonds and our stockbrokers, having now up-to-date figures to judge from, can easily determine what railroad securities to invest in, and the shipper or any other one interested what rates he ought to pay.

The result is that the railroads will no longer be able to pad accounts or conceal items if the law is enforced. This publicity not only in rates, but in accounts, payments, contracts, and administration, lays bare the entire railroad situation as never before. What has heretofore been dragged out by special investigation can now be ascertained as easily as the assessed valuation of a piece of real estate. It is this publicity which will force railroad officials to operate their roads on business principles even more than the mandatory provision of the Hepburn law itself, and such publicity the smallest shipper is as much interested in as some large shipper who has his own

cars or some large banking and stock brokerage house which purchases large blocks of railroad securities. Further, a broad discussion of railroad management, at any time, can produce no detrimental results, and at the present time a free and open discussion of the subject on broad lines would tend to adjust the present unsettled conditions and would bring about more stability of railroad operations. In fact, a discussion of this question will continue until all the interested parties are in accord as to the policy to be carried out or until the Interstate Commerce Commission, which has been given power by Congress to control the situation, defines its position.

SPECIAL FEATURES OF THE LAW WHICH APPLY TO THE SHIPPER.

Some of the provisions of the law particularly affect the shipper yet, because the interests of the railroads, the bankers, the shippers, and the public are closely linked together, any decision of the Interstate Commerce Commission may affect them all, even in those provisions of the law which only directly apply to the shipper. For example, when goods are shipped over more

than one route, if the carriers fail to agree upon the division of the through rate, the Commission can prescribe what will be a just and reasonable proportion of the through rate for the different carriers to charge. Further, when transportation is over more than one route, the Commission can prescribe the route over which the commodities shall be taken and what the through rate shall be. Further, the Commission can insist that there shall be a continuous carriage of freight from place of shipment to place of destination without unnecessary break of bulk, stoppage, or interruption. Further, when any service is rendered by the owner of the property which is being shipped, the Commission can determine what is a just and reasonable charge for such service, and this means that favored shippers can no longer be given an indirect form of rebate. Further, the railroads must furnish the necessary cars and facilities for transporting the goods of a shipper without discrimination in favor of or against any shipper. Further, a railroad cannot transport any article which it itself produces, mines, or manufactures. In other words, no common carrier can now engage in any other occupation than transportation,

—a fault which has been often pointed out, but never remedied. Further, all switches, spurs, and side-tracks used in the transportation of persons or property are now subject to the law, and a siding cannot be given to one man and refused to another. Further, rate wars will now be entered into with caution, if at all, because every railroad official will hesitate to lower the rates below what is fair and reasonable, knowing that, if he attempts to raise them later, the Interstate Commerce Commission may properly ask, “Why, if you were able to do business at the lower rate, do you now ask to increase your rates”? In other words, the Hepburn law checkmates him.

All private car contracts can now be known to the public, and this means that large shippers can no longer be given an indirect form of rebate by means of special contracts. All pipe lines must now publish their rates, and through tariffs now apply to these lines the same as to the railroads. Steamship companies transporting passengers or goods by water in connection with the railroads are now subject to the law. Any service performed in connection with the receipt, delivery, transfer in transit or with ventilation, refrigeration, icing, or storing in warehouses or

elevators, is now subject to the law. There will no longer be any midnight tariffs or tariffs changed for a few hours in order to give favored shippers the opportunity to ship their goods at low rates, and all tariffs must now state separately all terminal charges, storage charges, icing charges, and such other charges as the Commission may designate. When there is a joint tariff of two or more carriers, the rate charged by each carrier must be stated. Express companies and sleeping car companies are now obliged to file reports and keep their accounts as directed by the Commission. Up to this time very little has been known about the special contracts which these companies made with the railroads, and it has even been charged that they have enjoyed special favors, as railroad officials are frequently their largest stockholders.

THE LAW FROM THE LEGISLATORS' POINT OF VIEW.

Let us now look at the law from the point of view of our State or National legislators. Because of the uncertainty which now exists as to the full purport of the Hepburn law, and

because of the distrust which the public has of railroad operations—which has been brought about by railroad manipulations—laws are apt to be passed which will be too far in advance of the times, and to control the management of our railroads more than is advisable. The legislatures of twenty-eight different States have already, either enacted laws or have measures pending, which will largely reduce the earnings of certain of our railroads or burden them with unnecessary restrictions. Nineteen States have already passed laws reducing rates, and in several of these States the railroads have retaliated by abandoning all new construction, cutting down train service, and eliminating excursion rates. State legislation in reference to the railroad problem is at present inadvisable, as State authority except for local questions should only be exercised as an emergency right, and should not be used until after the Federal Government has had an opportunity to “make good,” or has shown that the Hepburn law is inadequate in giving justice either to the public, or to the railroads. Further, it is self-evident that the Interstate Commerce Commission should not be hampered by State laws in regulating the rates

of this country, as the Commission in making fair and reasonable rates must consider the railroad situation as a whole, and not as it exists in the different States.

The standardization of our railroads is now being brought about by the Hepburn law instead of by State laws, and to-day any legislation in reference to the railroad situation should be limited to such general legislation as will be supplementary to making this Hepburn law effective. Even Federal laws, introducing new principles, should be passed with caution, in order that the country may have time to adjust itself to the changed conditions under the Hepburn law. This law has been in operation seven months, but the business men of this country are just awakening to the real situation, and, consequently, have not adjusted their business to the new conditions. Several months more must elapse before there is a feeling of confidence in the public mind that the people of this country are to be benefited by this law,—a period of time which will be materially shortened if our railroad officials and our business men will appreciate that there is now a mutuality of interests between them and that by co-operation

they can solve this railroad problem. Already there is a unanimity of opinion on the part of all factors interested, that they should work in co-operation with the government. We are at present, however, handicapped, as we are still groping about in the dark to find the real issues involved, since no concrete statements have yet been made of the conditions to be remedied.

In considering any question of new legislation, we must remember that the development of the railroad systems of this country has differed from the development of the railroads of Europe; that in Europe commercial centres became established before the railroads were built, but in this country the railroads were built first, and our commercial centres came as the result of the development of our railroads. This development of our railroads and then of our commercial centres has been going on until we have now reached the period when our larger commercial centres are already established, and when any part of our country can be reached by our railroads in connection with our electric railway and the steamboat service of our coast and inland lakes and rivers. The construction period of railroad building is, consequently, now a thing

of the past, and during the last few years railroad financiering has been in the general development of the railroads already built and in welding together by re-organization and consolidation our separate railroad corporations into large railroad systems. Because few new lines have been built into new territory, and because the spirit of speculation which went with the construction period, and which gave enormous profits, is now rapidly disappearing, the railroad business of this country is already getting upon a more substantial business basis and becoming more standardized.

During the last few years, nature has not been niggardly, and an overwhelming impetus has been added to the producing power of this country by the formation of our large industrial trusts, which has given us a period of prosperity felt by every citizen of the land. This has brought about an expansion of business which our great railroad captains of industry have lacked the foresight to anticipate. To meet this enormous development of our country, there must now be a greater consolidating of interests and a greater community of operations by our railroads. Already an appreciation of the inter-

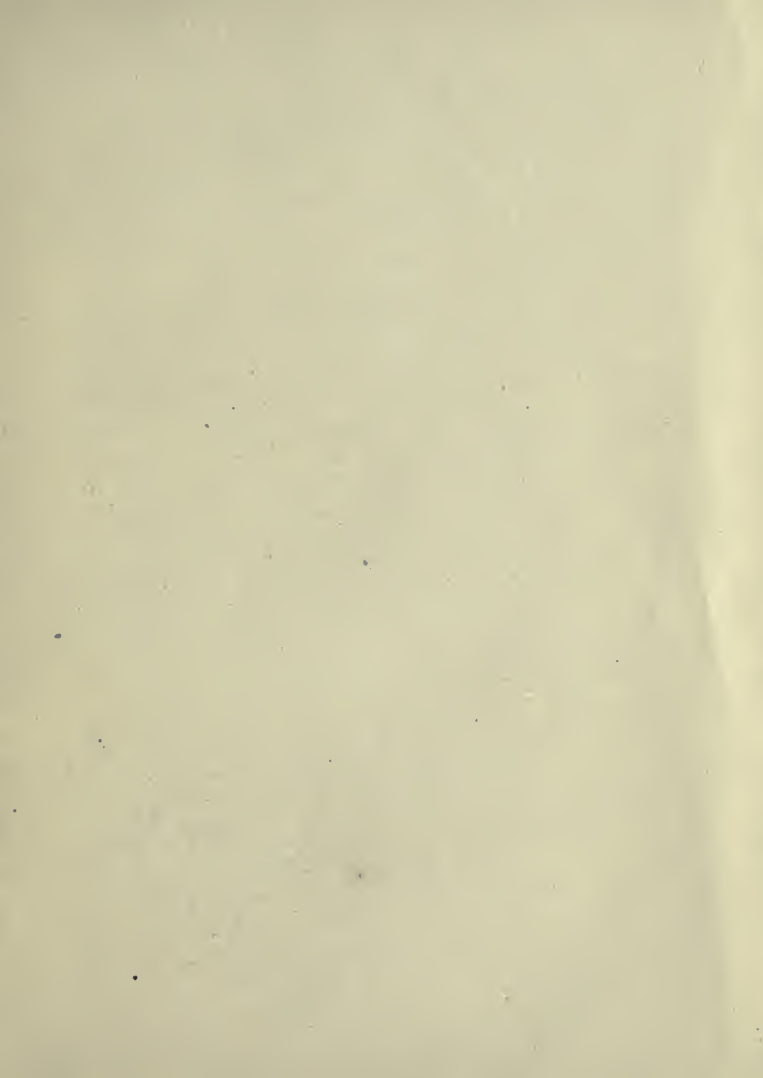
state character of our railroad service is taking place,—the Hepburn bill being the first expression toward remedying the lack of any general railroad policy. This law has made the Interstate Commerce Commission a vast clearing house, and the inevitable result is bound to be the standardization of our railroads, physically, in legal requirements, and with more economy of operating forces. Consequently, the future expansion of our railroad systems will be with less waste of resources. Because an effective nationalizing influence has been lacking in the past, our railroads have developed under uncertain and chaotic conditions and various local restrictions. It is this which has brought about the present acute railroad situation as expressed on the stock exchange by a fluctuating market.

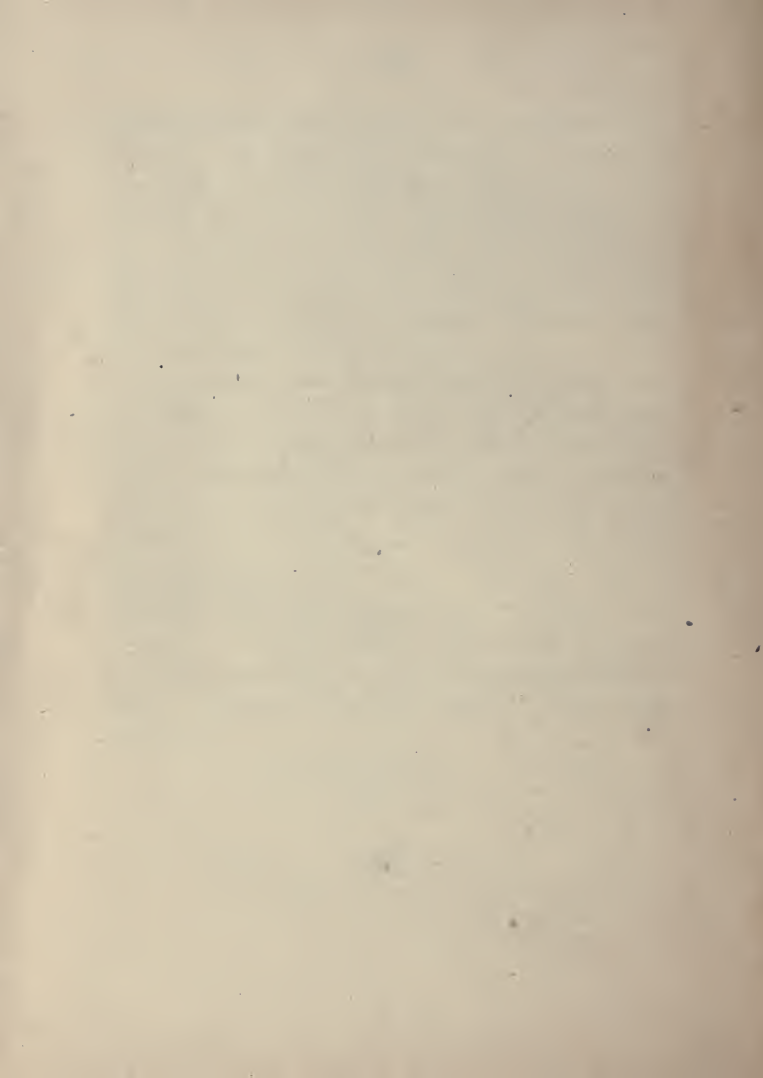
With a standard of operations there will be fewer protests against the way stocks are being manipulated by those who control the roads. Under the pressure of facts many of the officials of our larger railroad systems are now shrewdly leading public opinion instead of being led by it. These roads have already taken the first step in the regulation of rates without any

suggestion from the Interstate Commerce Commission. By doing this, they have shown the wholesome regard which they have for the Hepburn law, and, when the first step is taken by any railroad, we may rest assured that, at the proper time, the other steps will be taken which will give to the shipper whatever rights and privileges belong to him.

In conclusion, let me add that all great measures like the Hepburn law must have enough time to be understood in order to be appreciated. We must keep in mind that we are not interested in past conditions, but in the future welfare of this country, and that there is now a starting-point to work from, for every railroad manager and every banker, broker, shipper, and investor. If we do this it will do more to re-establish confidence in railroad management and railroad securities than we can do by any other single act.







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